

REMARKS

This Application has been carefully reviewed in light of the final Office Action mailed April 19, 2004 (the "Office Action"). The Office Action rejects Claims 37-46 and 85-94. Applicants respectfully request reconsideration and favorable action in this case.

Section 102 Rejections – Claims 37-40, 42, 44-46, 85-88, 90 and 92-94

The Examiner rejects Claims 37-40, 42, 44-46, 85-88, 90 and 92-94 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,414,955 issued to Clare et al. ("Clare"). Applicants respectfully traverse these rejections for the reasons discussed below.

To anticipate a claim, each and every limitation must be found in a reference. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP § 2131 (*emphasis added*).

Claim 37 recites "after reconfiguring the wireless node, transitioning the wireless node to a normal operating state in response to determining the operational data is within predefined parameters." Claim 85 includes a similar element. The Office Action contends that *Clare* discloses this element and cites to a number of broad portions of *Clare* (column 8, lines 27-30, column 14, lines 32-35, column 16, lines 22-27). *See* Office Action, page 4, first paragraph. These portions of *Clare* cited in the Office Action as disclosing this element actually disclose: (1) a startup network's normal operation of inviting new nodes into the network (col. 8, lines 27-30); (2) the continuing issuance of invitations to add new nodes to a network (col. 14, lines 32-35); and (3) the establishment of a new node in a network (col. 16, lines 22-27). Applicants respectfully submit that these cited portions do not disclose, teach or suggest transitioning the wireless node to a normal operating state in response to determining the operational data is within predefined parameters. The Office Action also "notes a reasonable but broad interpretation of 'is within predefined parameters' since the new node now becomes a member of the group since the operational data (i.e., topology data) is within predefined parameters (i.e., the new node is within the member set in reference to figure 2)."

Office Action, page 4, first paragraph. Applicants appreciate a broad interpretation of the elements of the claims. However, this Office Action statement does not support a contention that the portions of *Clare* cited above disclose, teach or suggest the asserted claim element. For example, Figure 2 illustrates relationships between nodes consisting of communicating neighbors and interfering neighbors. *See Clare*, col. 7, lines 32-35. The circles in Figure 2 represent idealized approximations of terrain. *See id.*, col. 7, lines 36-38. Thus, there is no disclosure in *Clare* for the contention in the Office Action of transitioning a wireless node to a normal operating state in response to determining that topology data is within predefined parameters, nor does Figure 2 relate to a new node in a member set. *Clare* does not even disclose a determination that operational data is within predefined parameters.

Claim 37 also recites "transitioning the wireless node to a learning state" and "collecting operational data in the learning state and modifying the operating parameters based on the operational data." Claim 85 includes similar elements. The Office Action contends that *Clare* discloses these elements and cites broadly to a number of portions of *Clare* (column 8, lines 23-27; column 15, lines 1-42; and column 20, line 56 - column 21, line 41) to support this contention. *See* Office Action, page 4, first paragraph. The Office Action is not clear as to the specific portions of *Clare* that disclose each particular claim element. For example, the Office Action does not indicate where *Clare* specifically discloses modifying, based on operational data collected in the learning state, operating parameters that were automatically determined in a start up state. The broad portions of *Clare* cited in the Office Action as disclosing this element generally disclose learning a network topology so that communications may be scheduled. *See, e.g.*, *Clare*, col. 8, lines 23-27, col. 15, lines 25-42. *Clare* does not disclose, teach or suggest collecting operational data in the learning state and modifying the operating parameters based on the operational data. As indicated above, the identical invention must be shown in as complete detail as is contained in the claims and the elements must be arranged as required by the claim. *See* MPEP § 2131.

Therefore, for at least these reasons, Applicants respectfully submit that Claims 37 and 85 are patentable over the cited art used in the rejections and request that the rejections to Claims 37 and 85 be withdrawn.

Claims 38-40, 42 and 44-46 each depends from Claim 37 and therefore includes each of the elements of Claim 37. Applicants thus respectfully request that the rejections of Claims 38-40, 42 and 44-46 be withdrawn because, as discussed above, Claim 37 is patentable over the cited art used in the rejection..

Claims 86-88, 90 and 92-94 each depends from Claim 85 and therefore includes each of the elements of Claim 85. Applicants thus respectfully request that the rejections of Claims 86-88, 90 and 92-94 be withdrawn because, as discussed above, Claim 85 is patentable over the cited art used in the rejection.

Section 103 Rejections – Claims 41, 43, 89 and 91

The Examiner rejects Claims 41, 43, 89 and 91 under 35 U.S.C. § 103(a) as being unpatentable over *Clare* in view of "On the Performance of a Routing Protocol for the Reconfigurable Wireless Network" to Haas et al. ("Haas"). Applicants respectfully traverse these rejections for the reasons discussed below. Applicants respectfully traverse these rejections for the reasons discussed below.

Claims 41 and 43 each depends from Claim 37 and therefore includes each of the elements of Claim 37. Applicants thus respectfully request that the rejections of Claims 41 and 43 be withdrawn because, as discussed above, Claim 37 is patentable over the cited art used in the rejection.

Claims 89 and 91 each depends from Claim 85 and therefore includes each of the elements of Claim 85. Applicants thus respectfully request that the rejections of Claims 89 and 91 be withdrawn because, as discussed above, Claim 85 is patentable over the cited art used in the rejection.

Claim 41 recites "collecting operational data in the normal operating state and transitioning back to the learning state in response to determining the operational data is outside the predefined parameters." Claim 89 recites a similar element. The Office Action

contends that *Clare* teaches transitioning back to a learning state. *See* Office Action, page 4. The Office Action also states that *Haas* "teaches the further recited limitation above at e.g., left hand column page 102." Office Action, page 6. However, the Office Action does not cite to a specific portion of this column of *Haas* as disclosing collecting operational data in the normal operating state and transitioning back to the learning state in response to determining the operational data is outside the predefined parameters, nor does the cited column disclose these elements. The cited column of *Haas* broadly discusses reconfigurable wireless networks, but does not disclose, teach or suggest determining the operational data is outside predefined parameters.

Claim 43 recites "transitioning from the normal operating state back to the learning state in response to accepting a modification in operating parameters requested by a neighboring node." Claim 91 recites a similar element. In a similar manner to the rejection of Claim 41 discussed above, the Office Action states that *Haas* "teaches the further recited limitation above at e.g., left hand column page 102." Office Action, page 6. However, the Office Action does not cite to a specific portion of this column of *Haas* as disclosing transitioning from the normal operating state back to the learning state in response to accepting a modification in operating parameters requested by a neighboring node, nor does the cited column disclose these elements. The cited column of *Haas* broadly discusses reconfigurable wireless networks, but does not disclose, teach or suggest accepting a modification in operating parameters requested by a neighboring node.

In addition, the MPEP sets forth a strict legal standard for finding obviousness based on a combination of references. According to the MPEP, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge [that was] generally available to one of ordinary skill in the art" at the time of the invention. MPEP § 2143.01. The Office Action suggests that *Haas* provides a motivation for combination with *Clare* on "page 104, right-hand column." Office Action, page 7. However, this cited column of *Haas*

discloses the performance of a zone routing scheme. There is no motivation in this cited column for combining any portion of *Haas* with the teachings of *Clare*.

Therefore, for at least these additional reasons, Applicants respectfully submit that Claims 41, 43, 89 and 91 are patentable over the cited art used in the rejections and request that the rejections of these claims be withdrawn.

CONCLUSIONS

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

No fee is believed to be due. However, the Commissioner is hereby authorized to charge any fees to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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